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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,454	04/14/2005	Rene Derie	270344US0PCT	6889
22850	7590	03/16/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			KRECK, JOHN J	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/531,454

Applicant(s)

DERIE ET AL.

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

The preliminary amendment has been entered.

Claims 1-10 are pending.

#### ***Claim Objections***

1. Claims are objected to because of the following informalities:

It is suggested that "of that of the sludge" should be added at the end of claim 2.

It is suggested that claim 10 should depend from claim 8 rather than 7.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what is meant by "techniques related to composting" in claim 5; and one of ordinary skill in the art could not be reasonably able to ascertain the scope of the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by JP05317894A.

JP05317894A teaches a process for treatment of sludge comprising foaming under controlled conditions; and drying the foam as called for in claim 1. See the English language abstract.

With regards to claim 5: JP05317894A explicitly teaches drying, and it is believed that the drying taught by JP05317894A is related to composting.

4. Claims 1, 5, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mainwaring, et al. (U.S. Patent number 5,281,339).

Mainwaring (e.g. col. 6, lines 24-35) teaches a process for treatment of sludge comprising foaming under controlled conditions; and drying the foam as called for in claim 1.

Mainwaring also discloses drying as called for in claim 5.

Mainwaring also discloses drying to a dry matter content greater than 65% as called for in claim 6 (see, e.g. col. 8, line 30---"dry powder" is deemed to anticipate 65% dry.)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mainwaring in view of Derie (U.S. Patent number 6,132,355).

Mainwaring lacks the calcining, but discloses that the dried foam is to be disposed of; while remaining silent as to the manner of disposal.

Derie teaches a similar process in which a heavy metal containing product is calcined.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Mainwaring process to have included calcining, in order to produce an inert mortar.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mainwaring in view of Forrester (U.S. Patent number 5,860,908)

Mainwaring lacks the phosphatizing.

Forrester teaches a similar process, which includes phosphatizing, to immobilize heavy metals.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Mainwaring process to have included phosphatizing as called for in claim 4.

7. Claims 2, 3, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Mainwaring or JP05317894A.

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Each of the Mainwaring and JP05317894A references lack the specific foam density.

One of ordinary skill in the art would have known that foam density is largely a process design variable: the density of the foam directly relates to the efficiency of separation of the foam from the bath. One of ordinary skill in the art would have found the claimed densities to be obvious through routine experimentation.


With regards to claim 7:

Mainwaring and JP05317894A each lack the drying in a composting tunnel. By applicant's own admission, drying in such tunnels is well known. One of ordinary skill in the art would have known that drying in composting tunnels would have been just as effective as other drying methods, thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the processes to have included drying in a composting tunnel as called for in claim 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Thurs 530am-2pm; Fri: telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Kreck  
Primary Examiner  
Art Unit 3673

13 March 2006